

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Filip Woroniecki	Team: Squad #12	CCRB Case #: 201801160	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/31/2018 , Thursday, 02/01/2018 11:30 PM	Location of Incident: East 86th Street and Lexington Avenue; Transit Bureau District 4 stationhouse	Precinct: 19	18 Mo. SOL 8/1/2019	EO SOL 8/1/2019	
Date/Time CV Reported Sun, 02/04/2018 2:17 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 02/12/2018 11:16 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			TB ATU
2. LT Ryan Murphy	00000	933077	TB ATU

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Johnpatric Harrigan	18227	950561	TB ATU
2. POM Nicholas Mckeever	25164	950867	TB ATU
3. POM Anthony Gambino	00213	958203	TB ATU

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
B. An officer	Off. Language: An officer made remarks to § 87(2)(b) based upon ethnicity.	
C.LT Ryan Murphy	Abuse: Lieutenant Ryan Murphy made a sexually suggestive remark to § 87(2)(b)	

Case Summary

On February 4, 2018, § 87(2)(b) filed this complaint with the Internal Affairs Bureau (IAB). The complaint generated log number 18-4803 and was received by the CCRB on February 12, 2018.

On February 1, 2018, at about 11:30 p.m., § 87(2)(b) illegally entered the uptown 6 train line at East 86th Street and Lexington Avenue in Manhattan. While in the station, he was approached by PO Johnpatrick Harrigan, PO Anthony Gambino and PO Nicholas McKeever of the Transit Bureau Antiterrorism Unit. As § 87(2)(b) asked to receive a desk appearance ticket instead of being arrested, an unknown officer allegedly informed him that he talked too much and stated, “Just shut your mouth, you’re a rat” (**Allegation A: Discourtesy – Word, § 87(2)(g)** § 87(2)(b) also told the officers that he was not sure if he wanted to continue living in the United States because he did not feel “free” and the unknown officer allegedly answered, “If you’re not free, get the fuck out of this country” (**within Allegation A: Discourtesy – Word, § 87(2)(g)** and **Allegation B: Offensive Language – Ethnicity, § 87(2)(g)**). § 87(2)(b) was arrested for jumping the turnstile and was transported to the Transit District Four stationhouse. While inside of a holding cell, § 87(2)(b) allegedly informed Lieutenant Ryan Murphy of the Transit Bureau Antiterrorism Unit that he observed a group of women illegally enter the subway system and get released from police custody without being summonsed or arrested. Lieutenant Murphy allegedly replied, “Maybe they gave them blowjobs” and walked away from § 87(2)(b)s cell (**Allegation C: Abuse of Authority – Sexual Misconduct – Sexual Harassment, Verbal, § 87(2)(g)**).

There was no video footage of this incident.

Findings and Recommendations

Allegation A - Discourtesy: An officer spoke discourteously to § 87(2)(b)
Allegation B – Offensive Language: An officer made remarks to § 87(2)(b) based upon ethnicity.

§ 87(2)(b) stated that after PO Harrigan informed him that he was arrested and requested transport, he asked officers to receive a desk appearance ticket and argued that it was unfair that they got to choose when to summons or arrest a civilian. An officer, other than PO Harrigan, replied to § 87(2)(b) “Just shut your mouth, you’re a rat.” § 87(2)(b) asked the officer why he called him a rat, and the officer stated, “Because you talk too much.” § 87(2)(b) said that he was not sure whether he wanted to continue living in this country since it is “not free.” The same officer replied to § 87(2)(b) “If you’re not free, get the fuck out of this country.” § 87(2)(b) described this officer as a 5’8” to 5’9” tall, 175-180-pound stocky white male, who was about 35 years old, dressed in uniform, and may have had blue eyes (**Board Review 01**).

§ 87(2)(g)
§ 87(2)(b) reported to IAB that PO Harrigan told him to “fucking sit down,” which he later denied in his sworn CCRB statement. § 87(2)(b) also did not mention the discourtesy allegation in his sworn statement until he was directly asked about it (**Board Review 07 and 01**).

PO Gambino did not recall any of § 87(2)(b)s statements or whether he requested to receive a desk appearance ticket during the incident. PO Gambino did not remember whether officers instructed § 87(2)(b) to be quiet and denied that he or any officer told him, “Just

shut your mouth, you're a rat." PO Gambino denied telling § 87(2)(b) "If you're not free, get the fuck out of this country" and did not remember hearing another officer say it. PO Gambino did not remember participating in or hearing any conversation regarding § 87(2)(b) s ethnic background, denied using profanity, and did not hear PO McKeever use profanity during the incident. PO Gambino is a 5'9" tall, 245-pound white male, who has hazel eyes, heavy body build, and was § 87(2)(b) old at the time of the incident (**Board Review 02**).

PO McKeever's statement was consistent with that of PO Gambino. PO McKeever is a 5'10" tall, 180-pound white male, who has hazel eyes, average body build, and was § 87(2)(b) old at the time of this incident (**Board Review 03**).

PO Harrigan stated that § 87(2)(b) was "very talkative" and upset as he repeatedly asked officers to issue him a desk appearance ticket in lieu of the arrest. PO Harrigan further noted that § 87(2)(b) informed him that he was going to "Lie and tell IAB this is bullshit rules," which he noted in his memo book. PO Harrigan denied hearing PO Gambino or PO McKeever tell § 87(2)(b) "Just shut your mouth, you're a rat." PO Harrigan denied hearing PO Gambino or PO McKeever state to § 87(2)(b) "If you're not free, get the fuck out of this country." PO Harrigan further denied hearing PO Gambino or PO McKeever make similar statements or comment on § 87(2)(b) s ethnic background. He also did not hear any officers use profanity during the incident (**Board Review 04**).

Lieutenant Murphy was not present for this portion of the incident and denied having any interaction with § 87(2)(b) inside of the 86th Street and Lexington Avenue Subway station (**Board Review 05**).

§ 87(2)(g)

Allegation C - Abuse of Authority - Lieutenant Ryan Murphy made a sexually suggestive remark to § 87(2)(b)

§ 87(2)(b) stated that while he was inside of a holding cell at Transit District Four stationhouse, he requested to speak to a supervisor and was approached by an officer identified via the investigation as Lieutenant Murphy. § 87(2)(b) asked Lieutenant Murphy if he could receive a desk appearance ticket and Lieutenant Murphy replied, "No." § 87(2)(b) then informed Lieutenant Murphy that he observed a group of women illegally enter the transit system and that they were released by NYPD officers without being summonsed or arrested. Lieutenant Murphy replied, "Maybe they gave them blowjobs" and walked away from § 87(2)(b) s cell without saying anything else. There were no other officers in the holding cell area and § 87(2)(b) did not have any subsequent interactions with Lieutenant Murphy (**Board Review 01**).

Lieutenant Murphy acknowledged speaking to § 87(2)(b) while he was inside of a holding cell, after he was informed by PO Harrigan and PO Gambino that § 87(2)(b) refused to be fingerprinted. Lieutenant Murphy informed § 87(2)(b) that fingerprinting was mandatory, and the longer he delayed it, the longer he was going to remain at the stationhouse. Lieutenant Murphy also informed § 87(2)(b) that he could dispute his arrest once he saw the judge, and denied speaking to him about a group of women observed by § 87(2)(b) in

the subway system. Lieutenant Murphy also denied telling § 87(2)(b) “Maybe they gave them blowjobs,” using the word “blowjobs,” and making any sexual comments or jokes. Lieutenant Murphy stated that he was unaccompanied by any officers while speaking with § 87(2)(b) though PO Harrigan and PO Gambino were in the arrest processing area, and could have potentially overheard his conversation (**Board Review 05**).

PO Harrigan, who was alone in the holding cell area at the time § 87(2)(b) was there, did not hear § 87(2)(b) request to speak to a supervisor and did not observe him speak to any officer. PO Harrigan did not hear any officer state to § 87(2)(b) “Maybe they gave them blowjobs” or make any other sexual comments or jokes (**Board Review 04**).

PO Gambino’s statement was consistent with that of PO Harrigan, but he did not know who placed § 87(2)(b) in the holding cell (**Board Review 02**).

PO McKeever’s statement was consistent with that of PO Gambino. PO McKeever also stated that Transit District Four stationhouse has no cell attendants and that it is the arresting officer’s responsibility to guard their inmate (**Board Review 03**).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has filed one prior CCRB complaint (**Board Review 08**).
- Lieutenant Murphy has been a member of service for 15 years and has been a subject in one prior CCRB complaint, involving one allegation, which was not substantiated § 87(2)(g) (**Board Review 06**).

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

As of June 5, 2018, there was no Notice of Claim filed for this complaint (**Board Review 10**).

Squad No.: 12

Investigator: _____ INV. WORONIECKI 08/15/2018
Signature Print Title & Name Date

Squad Leader: _____

Signature _____

IM RIGIE _____

Print Title & Name _____

Date _____

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____